



FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF GENERAL COUNSEL

# Memorandum

**TO:** Director, Reference Information Center  
Chief, Media Bureau  
Chief, Office of Engineering and Technology

**FROM:** *DMA*  
Daniel M. Armstrong  
Associate General Counsel

**SUBJECT:** *EchoStar Satellite L.L.C. v. FCC & USA*, No. 04-1033. Filing of a Petition for Review in the United States Court of Appeals for the District of Columbia Circuit.

**DATE:** February 5, 2004

This is to advise you that, on January 27, 2004, Echostar Satellite L.L.C. filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit, pursuant to 47 U.S.C. 402(a), of the following orders: *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment*, CS Docket No. 97-80, PP Docket No. 00-67, Second Report and Order and Second Further Notice of Proposed Rulemaking, FCC 03-225 (rel. Oct. 9, 2003), as corrected by Erratum (rel. Oct. 21, 2003); and Order on Reconsideration, FCC 03-329 (rel. Dec. 23, 2003).

The petitioner challenges the above-referenced orders issued in the Commission's "plug and play" rulemaking proceeding. Those orders adopted regulations to facilitate the direct connection of digital "navigation devices" or customer premises equipment purchased from retail outlets -- including television receivers, set-top boxes, and digital recorders -- to cable television and other multichannel video programming distributor systems. The petitioner challenges certain "encoding rules" imposed on DBS providers.

The Court has docketed this case as No. 04-1033. The attorney assigned to handle the litigation of this case is Richard K. Welch.